D.B. INCOME TAX APPEAL NO. 92/2001.

M/s.RAJ.SPINNING & WEAVING LTD. BHILWARA VS. THE DY.C.I.T. MILLS UDAIPUR

DATE OF ORDER : 21.07.2005.

HON'BLE MR. RAJESH BALIA, J.
HON'BLE MR. R.S. CHAUHAN, J.

Mr. Anjay Kothari for the appellant.
Mr. K.K. Bissa for the respondents.

The Income Tax Appellate Tribunal has submitted the statement of case and referred the following two questions of law arising from its appellate order dated 10.1.1995 in I.T.A No. 1047/JP/94 relating to assessment year 1990-91:

> Q.NO.1 Whether on facts and in the circumstances of the case and in law, the Tribunal was justified in holding that the order passed by the CIT under section 263 was correct and thereby upholding the same?
>
> Q.No.2. Whether on the facts and in the circumstances of the case and in law the Tribunal was justified in holding that the order passed by the Assessing Officer was erroneous and prejudicial to the interest of the Revenue?

Said reference was registered as D.B.I.T.R. No. 1/2003.

The above questions relate to validity of order passed by CIT under Section 263 of the I.T. Act, 1961.

This appeal relates to rejection of application made by the assessee for rectification of the aforesaid appellate order. The misc. application has been rejected by the Tribunal vide its order under appeal.

In view of our answer to the question about the validity of the order passed under Section 263 by the Commissioner in Income Tax Reference No.1/2003 in favour of assessee and against the Revenue, by holding that the order of the Tribunal was erroneous while confirming the order passed under Section 263, this appeal which relates to rejection of rectification application made by the assessee becomes of academic importance and infructuous and need not be decided.

The appeal is accordingly dismissed as having become infructuous. No costs.

(R.S.CHAUHAN),J. **(RAJESH BALIA),J.**

/Anil/